

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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SREE GAUTAM ROY,

Petitioner,

-against-

ERIC H. HOLDER,
United States Attorney General,

Respondent.

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**REPORT AND
RECOMMENDATION**

09-CV-3956 (ARR)

ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

Sree Gautam Roy (“petitioner”), proceeding *pro se*, seeks review of the Board of Immigration Appeals’ dismissal of petitioner’s appeal from a decision by the New York District Director of the United States Citizenship and Immigration Services, denying petitioner’s Form I-130 petition to be classified as a lawful permanent resident of the United States. In a letter to the Court dated February 23, 2010, respondent’s counsel advised the Court that it was unclear whether petitioner wished to pursue this action, as petitioner had taken no action to contact him or to move the case forward.

The Court therefore scheduled a status conference for March 25, 2010, and warned petitioner that his “[f]ailure to appear could result in sanctions and/or dismissal of the case.” Endorsed Order (March 2, 2010). Petitioner nevertheless failed to appear. However, because the Court’s file contained no express notation that a copy of the scheduling order had been mailed to petitioner, the Court, out of an abundance of caution, afforded petitioner “one final opportunity to show cause why the case should not be dismissed.” Minute Entry (March 25,

2010¹) at 1. Petitioner was warned that “if the Court has not received his response by April 5, 2010, it will recommend that the case be dismissed for lack of prosecution and for violating a court order, and possibly that sanctions be imposed.” Id. at 1-2. A copy of the Calendar Order was sent to petitioner, via Federal Express, at his last known address, but, after three delivery attempts and notices left for petitioner to arrange a pick-up, the package and Calendar Order contained therein were returned as undeliverable.

Since that time, petitioner has taken no steps to advance this litigation. It thus appears that he has abandoned the case. Therefore, the Court recommends that the petition be dismissed for lack of prosecution.

Any objection to the recommendations contained in this Report and Recommendation must be filed with the Honorable Allyne R. Ross on or before **June 4, 2010**. Failure to file objections in a timely manner may waive a right to appeal the District Court order. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a)(1), 72(b)(2); Small v. Sec’y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

The Clerk is directed to enter this Report and Recommendation into the ECF system and to mail a copy to *pro se* petitioner at his last known address.

SO ORDERED.

**Dated: Brooklyn, New York
May 18, 2010**

**ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE**

¹ Although the proceeding took place on March 25, 2010, the Calendar Order itself, which was entered that afternoon, is erroneously dated “March 24, 2010.”